

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN JULIUS MUCHA,	:	
Plaintiff	:	NO. 11-CV-0624
	:	
v.	:	
	:	CIVIL ACTION LAW
JAMES BOEHM, et al.,	:	
Defendant	:	JUDGE JOHN PADOVA

**DEFENDANT EMILIA CAPUTO'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO FED. R. CIV. P. 12(B)(6)**

Defendant Emilia Caputo, by and through their counsel, Goldberg Katzman, P.C., hereby files this Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6), and in support thereof avers the following:

1. Plaintiff, at all relevant times an inmate incarcerated at Northampton County Prison ("NCP") initiated this action by filing a Complaint alleging Constitutional violations under 42 U.S.C. §1983 as well as a variety of state law claims. (Doc. 1).
2. Plaintiff's claims stem from an alleged January 29, 2009 attack in which Plaintiff was beaten by three inmates. (Doc. 1, ¶29).
3. Plaintiff claims that after the alleged attack, correctional officers did not take him to the medical department until a shift change occurred approximately one and a half hours later. (Doc. 1, ¶¶38-39).
4. However, Plaintiff admits that once he was taken to the medical department, he was evaluated by a nurse. (Doc. 1, ¶39).
5. Plaintiff was released from NCP four days after the alleged attack. (Doc. 1, ¶42).
6. With regard to Defendant Caputo, the Complaint fails to contain any factual averments.

7. For the reasons articulated in Emilia Caputo's Brief in Support of this Motion to Dismiss, Plaintiff's Complaint must be dismissed.

GOLDBERG KATZMAN, P.C.

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Date: May 9, 2011

CERTIFICATE OF SERVICE

I hereby certify that I am this date serving a copy of the foregoing document upon the person(s) set forth below either by e-mail or first class mail, postage prepaid:

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